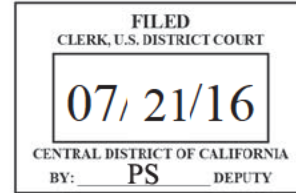


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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

| | | |
|--|---|--------------------------------------|
| |) | Case No: 2:16-CV-05111 |
| TAMARA BUCK, |) | |
| SHARON BROWN, |) | SECOND AMENDED COMPLAINT |
| SARAH LUCAS, |) | |
| CHARLENE HOUSEN, |) | 1. Freedom of Religion |
| DAWNIELLE SELDEN, |) | {Calif. Const., Art. 1, Sec. 4} |
| SERGE EUSTACHE |) | |
| TRICIA EUSTACHE, |) | 2. Children's Right to Go to School |
| NIKKI JENCEN, |) | {Calif. Const., Art. 9, Sec. 5} |
| |) | |
| <i>Plaintiffs,</i> |) | 3. Equal Protection—(Discrimination) |
| |) | {Calif. Const., Art. 1, Sec. 7} |
| vs. |) | |
| |) | 4. Right to Informed Consent |
| KAREN SMITH, in her capacity as |) | {Health & Safety Code §24175(a)} |
| the Director of the California |) | |
| Department of Public Health, |) | 5. Due Process—(Void for Vagueness) |
| and DOES 1 – 99, inclusive, |) | {Calif. Const., Art. 1, Sec. 7} |
| <i>Defendants.</i> |) | |
| |) | PLAINTIFFS DEMAND JURY TRIAL. |

25 MAY IT PLEASE THE COURT; now come the Plaintiffs with the instant
26 pleading, *Second Amended Complaint*, to halt enforcement of Senate Bill
27 No. 277. [See Calif. H&S Code §§120325–120380]
28

☞ STATEMENT of the CASE ☞

1
2 Procedural: Plaintiffs filed suit on April 22, 2016. On May 10, 2016,
3 Defendant was served. After Defendant gave notice of intent to demur, the parties
4 met and conferred, (June 9-10, 2016); then, on June 28, 2016, Plaintiffs filed the
5 *First Amended Complaint*. On July 8, 2016, Plaintiffs filed a *Motion for*
6 *Preliminary Injunction*, (hearing for which is Aug. 2, 2016). On July 12, 2016,
7 Defendant, KAREN SMITH, removed the case to U.S. District Court (2:16-cv-05111).
8 However, this litigation belongs in state court and Plaintiffs now seek to remand.

9 Plaintiffs challenge Senate Bill No. B 277: “*An act to amend Sections*
10 *120325, 120335, 120370, and 120375 of, to add Section 120338 to, and to*
11 *repeal Section 120365 of the Health and Safety Code, relating to public health.*”
12 [*Codified at Health & Safety Code §§120325 –120380*].

13 Plaintiffs bring this action to strike down SB 277 because it violates the
14 California Constitution. Plaintiffs seek preliminary and permanent injunctive relief
15 to preserve the status quo and halt SB 277 as soon as possible.

16 Effective July 1, 2016, SB 277 removes the “personal beliefs” exemption as
17 a basis for parents to opt-out of state mandated “immunization” of schoolchildren.
18 Plaintiffs oppose this law because it wrongfully places the interests of the national
19 vaccine market above the interests of children; and sadly, this is a symptom of a
20 larger sickness that debilitates the nation. America stands alone; we are the only
21 nation on Earth where healthcare is dispensed first and foremost to create
22 shareholder value, and only secondarily for healthcare reasons, and even then,
23 with little or no regard for patients’ rights as individuals (or as children).

24 SB 277 provides that students will be admitted to school only upon proof
25 of immunization as against a minimum of ten (10) different childhood diseases.
26 The state hopes to reach a goal of “total immunization” by injecting into children’s
27 bodies whichever chemicals or ingredients the state, in its sole discretion, deems
28 necessary and appropriate.

1 To implement this goal of total immunization, the state now takes the
2 extreme and outrageous step of denying children their fundamental right to go
3 to school—regardless of parents’ “personal beliefs,” including *philosophic*,
4 *conscientious*, and *religious* objections to state-mandated immunization.
5 Plaintiffs seek to strike down SB 277, restore all personal beliefs exemptions,
6 and obtain preliminary and permanent injunctions to forever halt SB 277’s
7 vaccine mandate.

8 SB 277 will segregate children based on whether they are vaccinated or
9 unvaccinated, and this constitutes discrimination based on “vaccination status.”
10 Under a *Brown vs. Board of Education* analysis, such a bifurcated school system—
11 vaccinate and unvaccinated—reeks of separate-but-equal, and thus, cannot stand.
12 Under California law, segregation based on vaccination status is every bit as
13 odious as segregation based on race, creed or color. [See *Brown vs. Board of*
14 *Education of Topeka*, (1954) 347 U.S. 483]

15 Plaintiffs sue to enforce their children’s constitutional right to an education
16 regardless of vaccination status and also to enforce parents’ right to exercise
17 personal beliefs in opposition to state-mandated immunization requirements—
18 including philosophic objections, (“*Herd immunity is fraud!*”), conscientious
19 objections, (“*We are Vegan—vaccines contain animal products!*”), and religious
20 objections, (“*My family is Pro-Life—vaccines contain aborted fetal cells!*”).

21 SB 277 violates the children’s fundamental right to attend school, (Calif.
22 Const. Art. 9, Sec. 5), and it also violates the parents’ fundamental right to freely
23 exercise their personal beliefs, (Calif. Const., Art. 1, Sec. 4).

24 The right to freely exercise religion forms the cornerstone of democracy.
25 The right to freely exercise one’s personal beliefs—philosophic, conscientious,
26 and religious—is indeed the most fundamental of all rights, quite literally, the most
27 cherished right of free-thinking people. SB 277’s vaccine mandate, and indeed,
28 any medical mandate, is fundamentally repugnant to free-thinking people.

1 Calif. Const., Art. 1, Sec. 4 protects an individual’s right to freely express
2 personal beliefs, even those that run contrary to the state. Art. 1, Sec. 4 allows
3 individuals to freely exercise personal beliefs and make their own joyful noise
4 without leave or hindrance from the state. This lawsuit champions religious
5 freedoms and individual rights.

6 Plaintiffs recognize no public health “crisis,” nor present-time infectious
7 “outbreak,” and thus, no justification to suspend the California Constitution.
8 In some very narrow and limited instances—*e.g.*, an outbreak of war—it may be
9 appropriate to consider *temporarily* suspending constitutional rights; however, the
10 vaccine mandate goes too far because it calls for *permanent* suspension of
11 constitutional rights—based on a (supposed) perpetual health crisis. The vaccine
12 profiteers pray for a perpetual health crisis, the media continually warns of crisis,
13 and lawmakers vow to forever fight the crisis (with unlimited funding); but in
14 reality, there is no crisis and no reason to consider suspending fundamental rights.

15 Plaintiffs refuse to surrender their right—as free Californians—to exercise
16 personal beliefs, *i.e.*, their sincerely held *philosophic, conscientious, and religious*
17 objections to state-mandated immunization and Plaintiffs refuse to surrender their
18 children’s constitutional right to go to school, (public, private or charter).

19 Parents should not be required to give-up one constitutional right to get
20 to another. Parents should not be forced to choose between the right to educate
21 their children, (Calif. Const. Art. 9, Sec. 5) and the right to exercise religious
22 beliefs in opposition to vaccination, (Calif. Const. Art. 1, Sec. 4). If Sacramento
23 lawmakers were to pass a law requiring 86 vaccinations as a condition of firearms
24 ownership—everybody would instantly see the Second Amendment violation.

25 SB 277 implicates “fundamental rights,” *i.e.*, the children’s right to go to
26 school, (Art. 9, Sec. 5), and the parents’ right to freely exercise beliefs, (Art. 1,
27 Sec. 4). The right-to-go-to-school and the right-to-freely-exercise-beliefs both
28 arise under the California Constitutional and are thus deemed “fundamental.”

1 Where fundamental rights are at stake, courts employ a heightened level
2 of review, *i.e.*, “strict scrutiny.” Under a strict scrutiny analysis, this Court must
3 strike down SB 277 because the state’s interest in *educating* children is necessarily
4 more compelling than its interest in *vaccinating* them.

5 Because SB 277 impacts fundamental rights, the burden of proof “shifts”
6 to the state to demonstrate a “compelling governmental interest” in SB 277.
7 If such a compelling interest exists, the state then has the burden to demonstrate
8 that lawmakers “narrowly tailored” SB 277 to achieve only that interest—with no
9 “less-restrictive means” available.

10 The stated goal of SB 277 is the “total immunization” of all California
11 schoolchildren. [*See* Calif. H&S Code §120325(a)] However, this ominous and
12 Orwellian goal of “total immunization” is factually impossible to achieve, which
13 means the state can never meet its legal burden (and Plaintiffs thus prevail).

14 Why is total immunization impossible?—because vaccines come with no
15 immunization guarantee. And because vaccines come with no immunization
16 guarantee, it is impossible for children to guarantee immunization to the state.
17 Furthermore, it is reckless for school districts to rely on student immunization
18 cards as “proof” of immunization—because the cards prove nothing.

19 The truth is, vaccines come with zero guarantees, warranties, or promises,
20 express or implied. Vaccine makers make no guarantee that vaccination will result
21 in immunization. However, the state-mandated immunization program relies on
22 this notion, *i.e.*, that vaccination always results in immunization, but this is simply
23 not so. The truth is, vaccine makers make no immunization guarantee.

24 There is no compelling governmental interest in the stated goal of total
25 immunization because such goal is impossible. The fact that a person is vaccinated
26 for a given disease does not tend to prove (or disprove) whether that person has
27 actual immunity against that disease. Vaccination does not guarantee immunity,
28 and therefore, it is illogical to segregate students based on vaccination status.

1 Forgetting for a moment what may be dubious motives underlying total
2 immunization, Plaintiffs point-out the availability of “less-restrictive” means,
3 *e.g.*, all 58 counties may pursue non-allopathic means of immunization and parents
4 may also immunize; and, in the event of an outbreak, counties may institute
5 quarantine. And where the state has legitimate concern about disease prevention,
6 (unrelated to concerns for the national vaccine market), the state may undertake
7 disease-prevention awareness.

8 SB 277 dictates the manner in which immunization must happen, leaving it
9 to the state, in its sole discretion, to decide the best method for acquiring immunity.
10 But the state’s decision-making process is too closely tied to the national vaccine
11 market. Parents must retain the sole and exclusive right to medical determinism
12 of their children, not the lawmakers and their corporate benefactors.

13 The term “immunization” (interchangeably called “immunity”) is a
14 conclusion that a disease-fighting shield is in effect; by contrast, the term
15 “vaccination” refers to a medical event that (ostensibly) leads to “immunization.”
16 If immunization be the goal, then parents ought to have the final say in how best
17 to achieve it, and Plaintiffs choose natural immunity—as Mother Nature plainly
18 intends—with no chemicals. Parents must raise their children, not the state.

19 Plaintiffs believe that clean, healthy living, promotes and fosters natural
20 immunity—which is always superior to artificial, chemically-induced immunity.
21 Natural immunity is the best way to guarantee an immune system capable of
22 forming immune defense responses sufficient to combat infectious outbreaks.

23 Vaccine makers concede that the immunizing effects of vaccination last
24 only a few weeks (if at all); by contrast, natural immunity is for life! And, perhaps
25 most significantly, natural immunity comes with no risk of harmful side-effects;
26 by contrast, all vaccines come with dozens of harmful side-effects, *e.g.*, asthma,
27 allergies, autism, autoimmune issues, seizures, encephalitis, paralysis, and death,
28 (which are listed on lengthy vaccine inserts).

1 The *Obukhanych Paradox* provides: “As measles immunization rates rise
2 to high levels in a population—measles becomes a disease of immunized persons.”
3 [Dr. Tetyana Obukhanych, PhD]. In all measles outbreaks, 9-of-10 were already
4 vaccinated; and this paradox reveals the futility and pointlessness of vaccination.

5 Vaccines transmit disease. Suppose, for example, there were 500 cases of
6 measles in L.A. County today; if tomorrow, somebody were vaccinated against
7 measles, there would then be 501 people able to spread measles in L.A. County.

8 Plaintiffs dispute the central hypothesis that drives vaccine theory, *i.e.*,
9 that injecting children with replicating viruses, bacteria, toxic preservatives and
10 chemical antigens—along with a slew of mystery adjuvants—will supposedly
11 empower the body’s disease-fighting abilities. However, this theory has never
12 been proven and Plaintiffs are eager to disprove it.

13 The presence of antibodies is merely a sign of exposure to disease, and the
14 mere fact of exposure to disease, with nothing more, does not prove that the body’s
15 natural disease-fighting abilities have been enhanced. Vaccines are designed to
16 bring *artificially-induced* immunity, and the immunizing effects (if any) are only
17 temporary (if at all); by contrast, *naturally-acquired* immunity lasts a lifetime.
18 Furthermore, *artificially-induced* infections offer only transient protection (if any);
19 by contrast, *naturally-acquired* infections provide a lifetime of protection.

20 All humans have a “microbiome,” a five-pound mass of gut microorganisms
21 that handle digestion, calorie burning, metabolism, and immune system function.
22 Medical science is just now beginning to view the “microbiome” as an “organ”
23 (just like the heart and lungs). Vaccine ingredients kill microorganisms that reside
24 in the gut microbiome—a scientific fact—and this explains why vaccination causes
25 so many gastro-intestinal and auto-immune issues. Vaccine ingredients decimate
26 our beneficial gut bacteria—and the bacterial die-off inhibits immune system
27 function—which in turn inhibits the body’s disease-fighting ability—which
28 directly contradicts industry claims that vaccines enhance disease-fighting ability.

1 Vaccination overwhelms the immune system, killing-off vital gut flora,
2 which explains why diarrhea frequently follows vaccination. Where gut flora are
3 killed-off, the microbiome loses balance (“homeostasis”) and nature’s fulcrum
4 point for optimal health thus becomes unstable, which sets the stage for disease.

5 Vaccine inserts reveal the following ingredients: fetal cells from aborted
6 babies, formaldehyde, aluminum, mercury, animal DNA and RNA, polysorbate 80,
7 horse serum, calf serum, fecal matter, urine, macerated cancer cells, phenol,
8 antibiotics, chicken embryos, mycoplasma, bacteria, viruses, MSG, sorbitol, and
9 known carcinogens. *What role do these ingredients play in fighting disease?*

10 Many vaccine ingredients are disallowed for Muslims, Jews, Hindus,
11 Christians, and Vegans. Vaccines contain genetically modified organisms, *e.g.*,
12 GMO yeast; these genetically modified organisms alter and modify our DNA.
13 (Vaccines contain mysterious nanoparticles with micro-delivery systems...)

14 No study has ever examined the long-term effects of vaccine ingredients—
15 and most alarming—no vaccine is ever tested in combination with *other* vaccines.
16 Notably, Sudden Infant Death Syndrome generally occurs 24–48 hours after
17 multiple vaccinations, and some believe SIDS was invented to disguise vaccine-
18 induced crib death; most adverse vaccine reactions go undiagnosed and unreported.

19 Vaccines are *pathogenesis*—as evidenced by the fact that the vaccinated
20 often develop the disease for which they are vaccinated. Vaccines cripple the
21 immune system, which serves only to create lifelong customers dependent on
22 ever more pharmaceuticals. Vaccines diminish fertility and cognitive function.

23 Some believe vaccines are battlefield weapons in a War on Overpopulation,
24 and this is not without historical precedent; back in Colonial times, as a cost-saving
25 alternative to traditional warfare with the Indians, Anglo-American soldiers would
26 purposely “inoculate” wool blankets with the smallpox virus, and then present the
27 inoculated blankets to the Indians with the specific intent to commit genocide and
28 thus eradicate the Indian race.

1 The state’s interest in achieving total immunization must necessarily take a
2 backseat to the California Constitution, which guarantees the fundamental right to
3 go to school. [Calif. Const., Art. 9, Sec. 5] The California Supreme Court stands
4 firmly on this fundamental right, stating: “[S]ociety has a compelling interest in
5 affording children an opportunity to attend school.” [*Serrano v. Priest*, (1971),
6 5 Cal. 3d 584, 606, 487 P.2d 1241, 1257].

7 The U.S. Supreme Court recognizes the right to refuse unwanted medical
8 interventions. [*Cruzan v. Director Missouri Dept. Health*, (1990) 497 U.S. 261]
9 Regarding a child’s best interests, it is the parents, not the State, who shall have the
10 right to make healthcare decisions; a child is not a “mere creature of the State.”
11 [*Parham v. J.R.*, (1979) 422 U.S. 584] SB 277 wrongfully removes the parents as
12 decision-makers, and in their place, substitutes the State as surrogate parents.

13 The U.S. Supreme Court also recognizes the fundamental interest of parents,
14 in contrast with that of the state, to guide the religious education of their children.
15 Western history and culture “reflect a strong tradition of parental concern for the
16 nurture and upbringing of their children which the State should not ignore.”
17 [*Wisconsin vs. Yoder*, (1972) 406 U.S. 205, 92 S. Ct. 1526, 32 L. Ed. 2d 15]

18 Vaccines kill and maim children and the horror of this reality is mind-
19 numbing. In too many instances, vaccines are more injurious and deadly than the
20 diseases for which they’re administered. For example, over the past ten years,
21 over 100 American children died from the MMR vaccine, (measles/mumps/rubella)
22 which far exceeds the number of measles deaths (if any). The vaccine for measles
23 kills approx. one American child per month, (and this is surely underreported).

24 SB 277 is a totalitarian mandate that expects parents to merrily sacrifice
25 their children for the greater good. But this is un-American. What’s next?
26 Forcible blood draws? Forcible organ donation? Genetic modification of uteruses?
27 SB 277 wrongfully places the *group* above the *individual*. Plaintiffs now look to
28 the California Constitution to restrain the tyranny of the majority.

1 Back in 1986, hoping to stabilize the national vaccine market, Congress
2 passed the National Childhood Vaccine Injury Act, [42 U.S.C. §300, (“The Act”)],
3 and the national Vaccine Injury Compensation Program, which has paid-out more
4 than \$3.4 billion (taxpayer money) on vaccine injury and wrongful death claims.

5 The Act was a response to a sharp increase in vaccine tort litigation in the
6 early 80s, which bankrupted two vaccine makers and threatened a third. The Act
7 protects vaccine makers by preempting products liability lawsuits; the Act instead
8 funnels victims into an arbitration quagmire—a non-adversarial tribunal with no
9 mechanism to subpoena industry documents (which would prove design defects).
10 The Act saddles taxpayers with the burden of funding injury compensation for
11 defective vaccines. The Act re-stabilized the national vaccine market by allowing
12 vaccine makers to dodge jury trials and class action lawsuits.

13 The Act bestows upon vaccine makers what amounts to almost total
14 immunity from liability and Congress enacted this legislation for just one reason:
15 all vaccines are “unavoidably unsafe.” In other words, even assuming a given
16 vaccine is manufactured and labeled in accordance with FDA rules, it nevertheless
17 remains “unavoidably unsafe” because such is the nature of vaccine design.

18 [*Bruesewitz v. Wyeth LLC*, (2011) 562 U.S. 223, 131 S. Ct. 1068, 1089]

19 *Bruesewitz* confirms the Act’s preemption of design-defect claims against
20 vaccine makers—because all vaccines are “unsafe.” There is no such thing as a
21 safe vaccine; if there were, we wouldn’t call it a vaccine. (And, likewise, there is
22 no such thing as a safe machine-gun; if there were, we’d call it something else.)
23 If vaccines were safe, vaccine makers wouldn’t need congressional immunization
24 from liability. Safe vaccines?—the most loathsome and oppressive lie ever told.

25 “But for” the Act, jury trials and class action lawsuits would swamp the
26 national vaccine market—then destabilize and ultimately capsize it—because all
27 vaccines are “unavoidably unsafe.” Without the Act’s protection, personal injury
28 lawyers would quickly drive all vaccine makers out of business.

1 Tragically, instead of removing unavoidably unsafe products from the
2 marketplace, Congress instead removed the specter of vaccine liability, and this,
3 in turn, removed all incentive for vaccine safety. When vaccines kill or maim,
4 vaccine makers pay no monetary damages to victims because Congress foisted that
5 duty upon taxpayers—who must bail-out vaccine makers for all design defects.

6 When defective automobiles kill children, a wrongful death cause-of-action
7 arises against Ford or Chevrolet; however, when defective vaccines kill children,
8 no cause-of-action arises against Merck or Pfizer.

9 The federal sovereign (at taxpayer expense) holds vaccine makers harmless
10 from liability for “unsafe” products, while the state sovereign (at taxpayer expense)
11 forces those same “unsafe” products on our children under SB 277.

12 Even where vaccines are manufactured and labeled per FDA rules, they
13 remain unavoidably unsafe. The popular media squawks incessantly—pretending
14 vaccines are “safe and effective”—but this is a blatant contradiction of the
15 Supreme Court holding in *Brusewitz*, which specifically ruled that all vaccines,
16 as a matter of law, are unavoidably unsafe; (further inquiry is unnecessary).

17 Future generations will look back at today’s modern vaccination practice as
18 barbaric pseudoscience—and wonder why we were so willing to inject children
19 with known carcinogens, toxins, pathogenic bacteria and DNA replicating viruses.
20 Future generations may condemn us forever if we corrupt the human legacy.

21 Plaintiffs emphasize that: (i) vaccines do not guarantee “immunization;”
22 (ii) vaccine-injured persons cannot sue vaccine makers at the county courthouse;
23 (iii) taxpayers must subsidize vaccine makers’ products liability, personal injury,
24 and wrongful death claims; (iv) all vaccine designs are unavoidably unsafe; and
25 (v) vaccine makers cannot explain how vaccines work, nor why they fail.

26 Plaintiffs refuse to sacrifice their children to the state—because vaccines are just
27 too risky. When all’s said, Plaintiffs would rather their children endure a seven-
28 day fever and rash—as opposed to a lifetime of autism.

1 The United States Court of Appeals recognizes that medical science is a
2 “field bereft of complete and direct proof of how vaccines affect the human body.”
3 [*Althen v. Sec’y of Health & Human Servs.*, 418 F.3d 1274 (Fed. Cir. 2005)]

4 Remarkably, medical science cannot explain *how* vaccines go wrong or
5 *why* vaccines kill, nor can it predict *who* will next suffer vaccine injuries or under
6 *what* circumstances. But this comes as no surprise—because vaccine makers are
7 just as incapable of explaining how vaccines (supposedly) enhance the body’s
8 disease-fighting abilities. The costs associated with vaccines clearly outweigh the
9 benefits (if any) because vaccines come with no immunization guarantee and
10 instead carry the very palpable risk of great bodily harm and death.

11 SB 277 was an overreaction to a reported measles outbreak at Disneyland, in
12 Anaheim, where a few dozen folk allegedly had a fever and a rash for seven days.
13 But Plaintiffs emphasize the facts—both vaccinated and un-vaccinated persons can
14 *contract* the measles virus, and both vaccinated and un-vaccinated can *spread* it.
15 Therefore, no compelling reason exists to segregate the un-vaccinated students.
16 All California schools must open their doors to all children equally.

17 SB 277 violates Plaintiffs’ and their children’s rights under the California
18 Constitution. Plaintiffs request preliminary and permanent injunctive relief halting
19 Defendant, KAREN SMITH from enforcing SB 277’s vaccine mandate. Plaintiffs
20 request a court order striking down SB 277 as “unconstitutional.”

21 Epilogue: Freedom means nothing if you can’t keep the government out of
22 your body.

23 Dated: **July 19, 2016**

LAW OFFICES OF T. MATTHEW PHILLIPS

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28 T. Matthew Phillips, Esq.
Plaintiffs’ Counsel.

☞ JURISDICTION & PARTIES ☞

1
2 (1) Plaintiff, TAMARA BUCK, a L.A. County resident, is a single mother to a
3 sixth-grade girl who is vaccine-free. Plaintiff, TAMARA BUCK, believes that
4 vaccinations are extremely risky for everyone, especially infants and children.
5 Her philosophy on immunity is that natural immunity is the safest and best kind of
6 immunity we can acquire. Plaintiff, TAMARA BUCK, breastfed her daughter for
7 30 months in order to pass on immunity, and to help her daughter fight disease
8 while her immune system matured. Her daughter has been extremely healthy since
9 the day she was born, with no immune issues whatsoever. Philosophically,
10 TAMARA BUCK, believes it is important to continue on her child's current
11 vaccine-free path. Because her daughter will enter seventh grade this coming fall,
12 it constitutes a new “grade span” under SB 277, which requires mandatory
13 immunization; and unless she compromises her “personal beliefs,” her daughter
14 will be denied the rest of her free public education based on SB 277. Plaintiff,
15 TAMARA BUCK, will be required to homeschool her daughter – and remain out
16 of the work force, or relocate out of state.

17 (2) Plaintiff, SHARON BROWN, a Riverside County resident, is a 42-year old
18 wife of a law enforcement officer, mother of two children, one of whom had severe
19 vaccine reactions. Plaintiff, SHARON BROWN'S two children are upstanding,
20 honor roll students in the public school system, of which SHARON BROWN is an
21 active financial contributor and weekly volunteer. SHARON BROWN is a
22 degreed, working professional with 15 years' experience in the engineering
23 recruiting industry. Plaintiff, SHARON BROWN, is a Christian fiercely opposed
24 to the practice of harvesting fetal cells from live babies for use in vaccines.
25 SHARON BROWN, believes in a holistic lifestyle, rejecting genetically modified
26 foods (GMOs), pesticides, pharmaceutical drugs, vaccines, and other chemicals, as
27 much as possible. In addition, SHARON BROWN believes that SB 277 violates
28 her right to privacy by “outing” her family as non-vaccinators.

1 (3) Plaintiff, SARAH LUCAS, a Butte County resident, is a 33-year-old single,
2 low-income, Christian, mother of three children who have had most recommended
3 vaccinations. All three of SARAH LUCAS' children experienced vaccine failure
4 or adverse physical reactions resulting in urgent care and ER visits. Plaintiff,
5 SARAH LUCAS, believes that, if her children aren't immune by now, then that is
6 a failure of the vaccines and failure to further vaccinate should not impact public
7 school access. Plaintiff, SARAH LUCAS, refuses to again put her healthy children
8 in danger simply to exercise their fundamental right to a public education.

9 (4) Plaintiff, CHARLENE HOUSEN, a Riverside County resident, is a 39-year-
10 old single mother of a vaccine-injured 5-year-old daughter who chooses to live
11 natural, vaccine-free, organic, and vegetarian. Plaintiff, CHARLENE HOUSEN
12 chooses to allow her daughter's immune system to do its job by not injecting or
13 ingesting harmful chemicals such as GMOs, pesticides, human or animal DNA,
14 aluminum or formaldehyde. Plaintiff, CHARLENE HOUSEN, loudly declares,
15 *"My body, my child, my choice!"*

16 (5) Plaintiff, DAWNIELLE SELDEN, a Riverside County resident, is a college-
17 educated professional, working mother of three, pro-life, Christian conservative.
18 DAWNIELLE SELDEN'S children are partially vaccinated, having abstained from
19 those vaccines that contain aborted fetal cells. One of DAWNIELLE SELDEN'S
20 children have had severe vaccine reactions; her oldest child suffered from vaccine
21 injury after receiving the MMR, and she has nephews who are autistic. Her son is
22 an honors student at a private Catholic school, and she believes it is ludicrous to
23 think that the State can take away her son's right to even a private education,
24 which she funds!

25 (6) Plaintiff, SERGE EUSTACHE, a Los Angeles County resident, is a 40-year-
26 old, African-American, married father of two beautiful daughters. Plaintiff,
27 SERGE EUSTACHE is a VFX artist, (visual effects artist), in the entertainment
28 industry. Plaintiff, SERGE EUSTACHE, pursues this lawsuit in the hopes of

1 keeping our freedom of choice in the matter of vaccinations. Steadfast and true
2 remains SERGE EUSTACHE’S dream of having his daughters pursue their
3 dreams through the educational system of California. Plaintiff, SERGE
4 EUSTACHE wishes that we all may one day enjoy not only lasting health but the
5 freedoms that come with it.

6 (7) Plaintiff, TRICIA EUSTACHE, a Los Angeles County resident, is a
7 46-year-old, married, mother of two girls, ages 7 and 2 and vaxx-free! Plaintiff,
8 TRICIA EUSTACHE is a licensed, Speech Pathologist who puts a lot of effort into
9 maintaining her family’s health and well-being. Plaintiff, TRICIA EUSTACHE
10 has been vegetarian for almost 10 years and she lives a holistic lifestyle. She
11 believes that health is best maintained by adhering to an organic diet, high in raw
12 foods, as well as exercise, routine cleansing, and detox. TRICIA EUSTACHE has
13 spent many years researching and experimenting with alternative and natural
14 remedies for common ailments. Her family avoids pharmaceuticals as much as
15 possible. Plaintiff, TRICIA EUSTACHE is opposed to vaccination because she
16 spent countless hours doing research aided by her background in microbiology.
17 Luckily, for her girls, TRICIA EUSTACHE began her research before they were
18 born to avoid having to make fear-based decisions.

19 (8) Plaintiff, NIKKI JENCEN, a San Diego County resident, is a strong
20 advocate for all human rights, especially children. Plaintiff, NIKKI JENCEN has
21 two vaccine-free children, ages 10 and 6. She is also married to a police officer in
22 San Diego County. Plaintiff, NIKKI JENCEN is a Holistic Health Practitioner,
23 educated with degrees in Sociology, Social Sciences, and Nutrition. She is an
24 online entrepreneur as she the creator of Mega Wellness Summit and the Founder
25 of Women’s Wellness Academy. Plaintiff, NIKKI JENCEN helps women and
26 children heal and live naturally. She believes that a holistic and organic lifestyle is
27 best for all, and she is a promoter of free and public education for all children.

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(9) Defendant, KAREN SMITH, is the Director of the California Department of Public Health. Defendant KAREN SMITH is sued in her capacity as the Director of the California Department of Public Health.

(10) DOES 1 – 10, inclusive, are herein sued under fictitious names; when Plaintiffs learn their true and correct names, Plaintiffs will amend this complaint. Each DOE Defendant is a proximate cause of Plaintiffs' harm.

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1 (18) Here, because fundamental rights are at stake, “strict scrutiny” is the
2 appropriate standard of judicial review; and thus, the burden of proof “shifts”
3 to the state, which must plead and prove, as an affirmative defense, the existence
4 of a “narrowly tailored, compelling governmental interest.”

5 (19) In order to survive strict scrutiny, the state must prove three things:

6 (i) the existence of a “compelling governmental goal or interest” in SB 277;

7 (ii) that SB 277 was “narrowly tailored” to achieve only that goal or interest, and,

8 (iii) that SB 277 was the “least restrictive means” of achieving it.

9 (20) Legislative Intent: Pursuant to Health & Safety Code Sec. 120325(a), it is
10 the express intent of Sacramento lawmakers to provide: “[a] means for the eventual
11 achievement of *total immunization* of appropriate age groups against [enumerated]
12 childhood diseases.” [See H & S Code §120325 *et.seq.*; emphasis added.]

13 (21) The articulated three-pronged legal analysis becomes: (i) whether there
14 exists a “compelling governmental interest” in Sacramento's stated goal, *i.e.*,
15 “total immunization;” (ii) whether SB 277 is “narrowly tailored” to achieve
16 Sacramento’s stated goal, *i.e.*, “total immunization; and (iii) whether there are
17 “less-restrictive means” of achieving total immunization.

18 (22) There is no “compelling governmental interest” in “total immunization.”
19 The goal itself is vague and ambiguous under a due process analysis, (how many
20 vaccines are required to achieve total immunization?). This stated goal—total
21 immunization—fails to pass muster even under the “rational basis” test.

22 (23) Even if the Court does find a compelling governmental interest, there are
23 “less-restrictive” means of immunization available to the state, *e.g.*, all 58 counties
24 may pursue non-allopathic means of immunization and parents may also
25 immunize; and, in the event of an outbreak, counties may institute quarantine.

26 (24) Injunctive Relief: Plaintiffs seek a preliminary injunction under CCP §526,
27 which provides an injunction may be granted “when it appears by the complaint
28 that the plaintiff is entitled to the relief demanded.” [See CCP §526] Plaintiffs

1 contend they are entitled to injunctive relief based only on the allegations set forth
2 in the complaint (which is verified).

3 (25) Inadequate Remedy at Law: Plaintiffs allege an inadequate remedy at law;
4 here, monetary compensation is inadequate because Plaintiffs' constitutional rights
5 are inalienable.

6 (26) Risk of Grave & Irreparable Harm: Unless the Court grants the requested
7 injunctive relief, children will suffer grave and irreparable harm, including injury
8 and death. Once the Court accepts the precedent that all vaccines are unavoidably
9 unsafe, as per *Bruesewitz*, the Court may then conclude that SB277 will be the
10 direct cause of dead and maimed schoolchildren. SB 277 will also cause many
11 children to lose their educations and/or force their parents to relocate out-of-state.

12 (27) Balancing the Equities: Here, because the risks so far outweigh the benefits,
13 (if any), the Court is wise to issue Plaintiffs' requested injunctive relief. Plaintiffs
14 are in earnest to halt SB 277—because they wish to save children's lives and spare
15 families from immeasurable grief, hardship, and suffering.

16 (28) Preserving the Status Quo: If the Court compares the harm to the Defendant
17 in *issuing* the requested injunction—versus the harm to Plaintiffs in *withholding*
18 the injunction, it becomes obvious that issuing the injunction merely preserves
19 the status quo, and no harm comes to the state. Plaintiffs urge the Court to err
20 on the side of the schoolchildren—to save their lives—and to defend their
21 fundamental right to go to school.

22 (29) Likelihood of Success on the Merits: Plaintiffs believe the instant, verified
23 complaint demonstrates a likelihood of success on the merits because SB 277
24 substantially interferes with fundamental, constitutional rights enumerated at both
25 the federal and state constitutions.

26 (30) Attorney's Fees: Plaintiffs seek an attorney's fees award under CCP §1021.5
27 because this lawsuit enforces important rights affecting the public interest and
28 brings substantial benefit to all Californians.

☞ CAUSE of ACTION No. 2 ☞

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2 (31) Cause-of-Action No. 2: Violation of the California Constitution, Article 9,
3 Section 5, “Children’s Right to Go to School.”

4 (32) Plaintiffs herein incorporate, by this reference, all other paragraphs.
5 Plaintiffs bring *Cause of Action No. 2*, on behalf of themselves and their children,
6 as against Defendant, KAREN SMITH, *in her capacity as* the Director of the
7 California Department of Public Health.

8 (33) Plaintiffs allege that SB 277 violates the California Constitution, Art. 9,
9 Sec. 5, which provides: “*The Legislature shall provide for a system of common*
10 *schools by which a free school shall be kept up and supported.*”

11 [Calif. Const., Art. 9, § 5]

12 (34) California Constitution, Art. 9, Sec. 5, guarantees the children’s fundamental
13 right to go to school, whether it be a free public school, a paid private school, or
14 daycare facility, charter school, *etc.*

15 (35) SB 277 wrongfully prohibits children from accessing their constitutional
16 right to education. SB 277’s medical mandate violates the children’s fundamental
17 rights under Calif. Const., Art. 9, Sec. 5—the right to go to school. Plaintiffs seek
18 preliminary and permanent injunctive relief—so that all children may go to school.

19 (36) SB 277 wrongfully places conditions on children’s constitutional right to
20 go to school; the state may not place 86 vaccines between children and their
21 constitutional right. Again, if the state required 86 vaccinations as a condition of
22 firearms ownership, everybody would instantly see the Second Amendment
23 violation. States may place no conditions on fundamental rights.

24 (37) Here, because fundamental rights are at stake, “strict scrutiny” is the
25 appropriate standard of judicial review; and thus, the burden of proof “shifts”
26 to the state, which must plead and prove, as an affirmative defense, the existence
27 of a “narrowly tailored, compelling governmental interest.”

1 (38) In order to survive strict scrutiny, the state must prove three things:

2 (i) the existence of a “compelling governmental goal or interest” in SB 277;

3 (ii) that SB 277 was “narrowly tailored” to achieve only that goal or interest, and,

4 (iii) that SB 277 was the “least restrictive means” of achieving it.

5 (39) Legislative Intent: Pursuant to Health & Safety Code Sec. 120325(a), it is
6 the express intent of Sacramento lawmakers to provide: “[a] means for the eventual
7 achievement of *total immunization* of appropriate age groups against [enumerated]
8 childhood diseases.” [See H & S Code §120325 *et.seq.*; emphasis added.]

9 (40) The articulated three-pronged legal analysis becomes: (i) whether there
10 exists a “compelling governmental interest” in Sacramento's stated goal, *i.e.*,
11 “total immunization;” (ii) whether SB 277 is “narrowly tailored” to achieve
12 Sacramento’s stated goal, *i.e.*, “total immunization; and (iii) whether there are
13 “less-restrictive means” of achieving “total immunization.”

14 (41) There is no “compelling governmental interest” in “total immunization.”
15 The goal itself is vague and ambiguous under a due process analysis, (how many
16 vaccines are required to achieve total immunization?). This stated goal—total
17 immunization—fails to pass muster even under the “rational basis” test.

18 (42) Even if the Court does find a compelling governmental interest, there are
19 “less-restrictive” means of immunization available to the state, *e.g.*, all 58 counties
20 may pursue non-allopathic means of immunization and parents may also
21 immunize; and, in the event of an outbreak, counties may institute quarantine.

22 (43) Injunctive Relief: Plaintiffs seek a preliminary injunction under CCP §526,
23 which provides an injunction may be granted “when it appears by the complaint
24 that the plaintiff is entitled to the relief demanded.” [See CCP §526] Plaintiffs
25 contends they are entitled to relief based only on the allegations set forth in the
26 complaint (which is verified).

1 (44) Inadequate Remedy at Law: Plaintiffs allege an inadequate remedy at law;
2 here, monetary compensation is inadequate because the constitutional rights of
3 Plaintiffs’ children are inalienable.

4 (45) Risk of Grave & Irreparable Harm: Unless the Court grants the requested
5 injunctive relief, children will suffer grave and irreparable harm, including injury
6 and death. Once the Court accepts the precedent that all vaccines are unavoidably
7 unsafe, as per *Bruesewitz*, the Court may then conclude that SB277 will be the
8 direct cause of dead and maimed schoolchildren. SB 277 will also cause many
9 children to lose their educations and/or force their parents to relocate out-of-state.

10 (46) Balancing the Equities: Here, because the risks so far outweigh the benefits,
11 (if any), the Court is wise to issue Plaintiffs’ requested injunctive relief. Plaintiffs
12 are in earnest to halt SB 277—because they wish to save children’s lives and spare
13 families from immeasurable grief, hardship, and suffering.

14 (47) Preserving the Status Quo: If the Court compares the harm to the Defendant
15 in *issuing* the requested injunction—versus the harm to Plaintiffs in *withholding*
16 the injunction, it becomes obvious that issuing the injunction merely preserves
17 the status quo, and no harm comes to the state. Plaintiffs urge the Court to err
18 on the side of the schoolchildren—to save their lives—and to defend their
19 fundamental right to go to school.

20 (48) Likelihood of Success on the Merits: Plaintiffs believe the instant, verified
21 complaint demonstrates a likelihood of success on the merits because SB 277
22 substantially interferes with fundamental, constitutional rights enumerated at both
23 the federal and state constitutions.

24 (49) Attorney’s Fees: Plaintiffs seek an attorney’s fees award under CCP §1021.5
25 because this lawsuit enforces important rights affecting the public interest and
26 brings substantial benefit to all Californians.

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☞ CAUSE of ACTION No. 3 ☞

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2 (50) Cause-of-Action No. 3: Violation of the California Constitution, Article 1,
3 Section 7, Equal Protection – discrimination based on vaccination status.

4 (51) Plaintiffs herein incorporate, by this reference, all other paragraphs.
5 Plaintiffs, and each of them, bring *Cause of Action No. 3*, on behalf of themselves
6 and their children, as against Defendant, KAREN SMITH, *in her capacity as*
7 the Director of the California Department of Public Health.

8 (52) Calif. Const., Art. 1, Sec. 7 provides, “[a] person may not be denied equal
9 protection of the law.” Plaintiffs contend that SB 277 violates Equal Protection
10 because it discriminates against students based on “vaccination status.” Schools
11 must treat all children the same—regardless of whether they are vaccinated.

12 (53) Differential treatment of students based on “vaccination status” constitutes
13 unlawful discrimination. It is arbitrary and capricious to treat students differently
14 based on whether they’ve been vaccinated—e.g., against measles—because both
15 vaccinated and un-vaccinated persons can *contract* the measles virus, and both
16 vaccinated and un-vaccinated can *spread* it. Measles is an equal opportunity virus;
17 it strikes regardless of vaccination status. Therefore, segregating students based on
18 vaccination status does nothing to halt the virus.

19 (54) Modernly, in all instances of infectious outbreaks, 95%+ of the afflicted
20 were already vaccinated; and this comes as no surprise because 95%+ of the
21 general population is already vaccinated for all the common infectious diseases.

22 (55) As measles immunization rates rise to high levels in a population, measles
23 becomes a disease of immunized persons; and this paradox remains true for all
24 infectious diseases that SB 277 contemplates. In other words, where infectious
25 outbreaks strike, 9-out-of-10 persons afflicted by the *Dreaded Disease* were
26 already vaccinated against the *Dreaded Disease*—for which the state now wishes
27 to forcibly impose vaccination; but this serves only to underscore the futility and
28 pointlessness of vaccinating against the *Dreaded Disease* in the first place.

1 (56) If SB 277 takes effect, California will be left with a segregated school
2 system—vaccinated and unvaccinated—and Plaintiffs’ children will suffer
3 invidious discrimination based on “vaccination status,” which Plaintiffs argue
4 should be deemed a protected class in all places of public accommodations.

5 (57) Under *Brown vs. Board of Education*, such a bifurcated school system,
6 vaccinated and unvaccinated, violates the “separate-but-equal” mandate, and
7 therefore, such a divided education system cannot stand. Discrimination based
8 on vaccination status violates Equal Protection, (Calif. Const., Art. 1, Sec. 7).

9 (58) Here, because fundamental rights are at stake, “strict scrutiny” is the
10 appropriate standard of judicial review; and thus, the burden of proof “shifts”
11 to the state, which must plead and prove, as an affirmative defense, the existence
12 of a “narrowly tailored, compelling governmental interest.”

13 (59) In order to survive strict scrutiny, the state must prove three things:

- 14 (i) the existence of a “compelling governmental goal or interest” in SB 277;
15 (ii) that SB 277 was “narrowly tailored” to achieve only that goal or interest, and,
16 (iii) that SB 277 was the “least restrictive means” of achieving it.

17 (60) Legislative Intent: Pursuant to Health & Safety Code Sec. 120325(a), it is
18 the express intent of Sacramento lawmakers to provide: “[a] means for the eventual
19 achievement of *total immunization* of appropriate age groups against [enumerated]
20 childhood diseases.” [See H & S Code §120325 *et.seq.*; emphasis added.]

21 (61) The articulated three-pronged legal analysis becomes: (i) whether there
22 exists a “compelling governmental interest” in Sacramento's stated goal, *i.e.*,
23 “total immunization;” (ii) whether SB 277 is “narrowly tailored” to achieve
24 Sacramento’s stated goal, *i.e.*, “total immunization; and (iii) whether there are
25 “less-restrictive means” of achieving “total immunization.”

26 (62) There is no “compelling governmental interest” in “total immunization.”
27 The goal itself is vague and ambiguous under a due process analysis, (how many
28

1 vaccines are required to achieve total immunization?). This stated goal—total
2 immunization—fails to pass muster even under the “rational basis” test.

3 (63) Even if the Court does find a compelling governmental interest, there are
4 “less-restrictive” means of immunization available to the state, *e.g.*, all 58 counties
5 may pursue non-allopathic means of immunization and parents may also
6 immunize; and, in the event of an outbreak, counties may institute quarantine.

7 (64) Injunctive Relief: Plaintiffs seek a preliminary injunction under CCP §526,
8 which provides an injunction may be granted “when it appears by the complaint
9 that the plaintiff is entitled to the relief demanded.” [*See* CCP §526] Plaintiffs
10 contends they are entitled to relief based only on the allegations set forth in the
11 complaint (which is verified).

12 (65) Inadequate Remedy at Law: Plaintiffs allege an inadequate remedy at law;
13 here, monetary compensation is inadequate because the constitutional rights of
14 Plaintiffs’ children are inalienable.

15 (66) Risk of Grave & Irreparable Harm: Unless the Court grants the requested
16 injunctive relief, children will suffer grave and irreparable harm, including injury
17 and death. Once the Court accepts the precedent that all vaccines are unavoidably
18 unsafe, as per *Bruesewitz*, the Court may then conclude that SB277 will be the
19 direct cause of dead and maimed schoolchildren. SB 277 will also cause many
20 children to lose their educations and/or force their parents to relocate out-of-state.

21 (67) Balancing the Equities: Here, because the risks so far outweigh the benefits,
22 (if any), the Court is wise to issue Plaintiffs’ requested injunctive relief. Plaintiffs
23 are in earnest to halt SB 277—because they wish to save children’s lives and spare
24 families from immeasurable grief, hardship, and suffering.

25 (68) Preserving the Status Quo: If the Court compares the harm to the Defendant
26 in *issuing* the requested injunction—versus the harm to Plaintiffs in *withholding*
27 the injunction, it becomes obvious that issuing the injunction merely preserves
28 the status quo, and no harm comes to the state. Plaintiffs urge the Court to err

1 on the side of the schoolchildren—to save their lives—and to defend their
2 fundamental right to go to school.

3 (69) Likelihood of Success on the Merits: Plaintiffs believe the instant, verified
4 complaint demonstrates a likelihood of success on the merits because SB 277
5 substantially interferes with fundamental, constitutional rights enumerated at both
6 the federal and state constitutions.

7 (70) Attorney’s Fees: Plaintiffs seek an attorney’s fees award under CCP §1021.5
8 because this lawsuit enforces important rights affecting the public interest and
9 brings substantial benefit to all Californians.

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☞ CAUSE of ACTION No. 4 ☞

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2 (71) Cause-of-Action No. 4: Violation of Health & Safety Code §24175(a),
3 “Right to Informed Consent.”

4 (72) Plaintiffs herein incorporate, by this reference, all other paragraphs.
5 Plaintiffs, and each of them, bring *Cause of Action No. 4*, on behalf of themselves
6 and their children, as against Defendant, KAREN SMITH, *in her capacity as*
7 the Director of the California Department of Public Health.

8 (73) SB 277’s vaccine mandate is properly deemed a medical experiment because
9 it reduces the patients to “test subjects”—guinea pigs in ongoing clinical trials.
10 SB 277 robs the rights of the individual—to satisfy the greater good. The term
11 “greater good” is a polite euphemism for “tyranny of the majority.” But Plaintiffs
12 note, the purpose of the courts is to restrain the group vis-à-vis the individual.

13 (74) Randomized Double Blind Placebo Control studies, (“RDBPC”), are the
14 gold standard of epidemiologic studies, however, no such safety studies exist for
15 vaccines; instead, vaccine makers look to Sacramento lawmakers to force children
16 to become unwitting test subjects in their grand medical experiments.

17 (75) No vaccine is ever tested in combination with *other* vaccines. Modernly,
18 infants are jabbed as many as seven times in one well-visit, yet there are no safety
19 trials for the myriad possible combinations of seven different shots (and physicians
20 never pre-screen for allergies). Vaccines come in just one size, and apparently,
21 one size fits all—an 8-lb. newborn receives the same dosage as a 300-lb. adult.

22 (76) Modern vaccination utterly ignores the patient’s right to informed consent.
23 And Plaintiffs argue that it’s not enough to blithely list a cavalcade of possible
24 side-effects on vaccine warning inserts, (which aren’t always offered to parents).
25 Mandatory vaccination must come with an “informed consent” clause.

26 (77) Generally speaking, the medical community knows and understands that
27 patients are entitled to “receive sufficient information to make a meaningful
28 decision” regarding their healthcare. [See *Cobbs v. Grant* (1972) 8 Cal.3d 229]

1 (78) The law requires informed consent for some procedures, *e.g.*, breast cancer
2 and prostate cancer treatments, sterilizations, psychosurgery, and electroshock
3 therapy; however, SB 277’s vaccine mandate contains no informed consent clause.

4 (79) Plaintiffs contends that the vaccine mandate of SB 277 constitutes a
5 “medical experiment”—as defined at H & S Code §24174—which in turn triggers
6 an “informed consent” requirement under H & S Code §24175.

7 (80) H & S Code §24174 specifically defines term “medical experiment” as:

8 “The severance or penetration or damaging of tissues of a human
9 subject or the use of a drug or device, as defined in Section 109920
10 or 109925, electromagnetic radiation, heat or cold, or a biological
11 substance or organism, in or upon a human subject in the practice
12 or research of medicine in a manner not reasonably related to
13 maintaining or improving the health of the subject or otherwise
14 directly benefiting the subject.” [H & S Code §24174; emphasis added]

15 (81) SB 277’s vaccine mandate fits the Code definition for “medical experiment.”
16 Vaccines are used in the penetration of human subjects, in the practice of medicine,
17 in a manner not reasonably related to the health of *the subject* or otherwise directly
18 benefiting *the subject*. The vaccine mandate does not benefit the subject, but
19 rather, the group, (the greater good). And, even assuming vaccines are beneficial
20 health-wise, it’s the group who accrues the benefit, not the subject.

21 (82) SB 277 relies on “herd immunity,” a controversial theory which argues that
22 individuals cannot stand selfishly alone in society, but rather, must surrender their
23 individual rights to pitch-in and help the group. This herd theory makes the
24 argument that vaccinations are *ineffective* as to the *individual*—unless a requisite
25 percentage of *others* also gets vaccinated. Of course, this herd theory is wholly
26 devoid of real world logic, but it appeals to herd sensibilities, *i.e.*, the greater good.
27 Sure, it may sound patriotic—the greater good—but this same rhetoric was the
28 cause-in-fact of Dachau, Buchenwald, Treblinka and Auschwitz.

1 (83) SB 277’s vaccine mandate provides no direct benefit to the individual;
2 rather, the government’s goal of “total immunization” benefits only the group.
3 In fact, the goal of total immunization actually harms the individual, who must
4 forcibly sacrifice his or her civil liberties, personal freedoms, and individual rights.
5 All medical mandates are experiments and must come with “informed consent.”

6 (84) Because SB 277’s vaccine mandate constitutes a medical experiment,
7 it triggers an “informed consent” requirement under H & S Code §24175(a),
8 which provides: “[N]o person shall be subjected to any medical experiment unless
9 the informed consent of such person is obtained.” [See H & S Code §24175(a);
10 underscores added.]

11 (85) SB 277’s vaccine mandate violates the informed consent requirement set
12 forth at H & S Code §24175(a); therefore, the mandate must be stricken. SB 277 is
13 unlawful for lack of an informed consent clause to protect patients.

14 (86) In addition, because SB 227’s vaccine mandate constitutes a medical
15 experiment, it also triggers the “Experimental Subject’s Bill of Rights,” as per
16 H & S Code §24172, which is a list of the rights of medical experiment subjects.

17 The test subject’s rights include the right to all of the following:

18 (a) Be informed of the nature and purpose of the experiment. [§24172(a)]

19 (b) Be given an explanation of the procedures to be followed in the medical
20 experiment, and any drug or device to be utilized. [§24172(b)]

21 (c) Be given a description of any attendant discomforts and risks reasonably
22 to be expected from the experiment. [§24172(c)]

23 (d) Be given an explanation of any benefits to the subject reasonably to be
24 expected from the experiment, if applicable. [§24172(d)]

25 (e) Be given a disclosure of any appropriate alternative procedures, drugs or
26 devices that might be advantageous to the subject, and their relative risks and
27 benefits. [§24172(e)]

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1 (f) Be informed of the avenues of medical treatment, if any, available to the
2 subject after the experiment if complications should arise. [§24172(f)]

3 (g) Be given an opportunity to ask any questions concerning the experiment
4 or the procedures involved. [§24172(g)]

5 (h) Be instructed that consent to participate in the medical experiment may
6 be withdrawn at any time and the subject may discontinue participation in the
7 medical experiment without prejudice. [§24172(h)]

8 (i) Be given a copy of the signed and dated written consent form as provided
9 for by Section 24173 or 24178. [§24172(i)]

10 (j) Be given the opportunity to decide to consent or not to consent to a
11 medical experiment without the intervention of any element of force, fraud,
12 deceit, duress, coercion, or undue influence on the subject's decision. [§24172(j)]

13 (87) SB 277’s vaccine mandate fits the definition for “medical experimentation”
14 under the Health & Safety Code, which thus triggers statutory informed consent
15 requirements. SB 277’s vaccine mandate is thus unlawful for failure to include an
16 informed consent clause. Furthermore, Plaintiffs argue that all ten SB 277
17 vaccines are in fact “medical experiments”—simply because none have ever
18 undergone safety testing. The vaccine industry now uses schoolchildren for
19 vaccine clinical trials, and of course, all clinical trials are “medical experiments.”
20 Sadly, Defendants disregard informed consent because they presume that nobody
21 can opt-out (and so why bother informing parents of the risk?).

22 (88) For the accused, we require *Miranda* warnings, which is the government’s
23 way of obtaining informed consent (in criminal matters) by apprising the accused
24 of the various risks of making verbal statements incident to arrest. However, it
25 stretches the limits of imagination to suppose why the government refuses to
26 obtain informed consent from parents by apprising them of vaccination risks.
27 Every vaccination, quite literally, is a deadly gamble, not unlike *Russian Roulette*.
28 There is no such thing as a safe vaccine—and all parents should know this fact.

1 (89) All medical mandates are fundamentally at odds with informed consent.
2 The very notion of informed consent presupposes a right to “opt-out,” whereas,
3 by contrast, a medical mandate presupposes that nobody can “opt-out.” And while
4 some governmental mandates may be appropriate, (*e.g.*, auto insurance mandate),
5 Plaintiffs believe that *medical* mandates are never appropriate—precisely because
6 such mandates circumvent the notion of informed consent. The state will argue
7 that vaccination is not an actual “medical procedure”—and the state uses this
8 pretextual argument to ignore patients’ right to consent. However, Plaintiffs are
9 quick to point-out that vaccination involves physical *penetration* of one’s body—
10 and such physical penetration, Plaintiffs argue, must come with the consent of
11 those being penetrated; if not, then tyranny surely reigns.

12 Side Bar: If the Court, respectfully, dismisses Plaintiffs’ fundamental
13 rights claims, (freedom of religion and the right to go to school), on the basis
14 that “group” rights trump “individual” rights, then such finding only proves that
15 SB 277 in fact benefits the group (not the individual). Although such ruling
16 would dismiss Claims No. 1 and 2, (religion and schooling), such ruling would
17 also prove Claim No. 4, which alleges that SB 277’s vaccine mandate is really
18 a “medical experiment”—because it benefits the “group” (not the individual).
19 Either way, Plaintiffs prevail: If the Court holds that SB 277 *wrongfully* places
20 the group above the individual, then of course, Plaintiffs prevail. And, if the Court
21 holds that SB 277 *properly* places the group above the individual, then Plaintiffs
22 will still prevail because SB 277 must then be deemed a “medical experiment”—
23 and this renders SB 277 unlawful for lack of informed consent requirements.

24 (90) Injunctive Relief: Plaintiffs seek a preliminary injunction under CCP §526,
25 which provides an injunction may be granted “when it appears by the complaint
26 that the plaintiff is entitled to the relief demanded.” [See CCP §526] Plaintiffs
27 contend they are entitled to injunctive relief based only on the allegations set forth
28 in the complaint (which is verified).

1 (91) Inadequate Remedy at Law: Plaintiffs allege an inadequate remedy at law;
2 here, monetary compensation is inadequate because Plaintiffs’ constitutional rights
3 are inalienable.

4 (92) Risk of Grave & Irreparable Harm: Unless the Court grants the requested
5 injunctive relief, children will suffer grave and irreparable harm, including injury
6 and death. Once the Court accepts the precedent that all vaccines are unavoidably
7 unsafe, as per *Bruesewitz*, the Court may then conclude that SB277 will be the
8 direct cause of dead and maimed schoolchildren. SB 277 will also cause many
9 children to lose their educations and/or force their parents to relocate out-of-state.

10 (93) Balancing the Equities: Here, because the risks so far outweigh the benefits,
11 (if any), the Court is wise to issue Plaintiffs’ requested injunctive relief. Plaintiffs
12 are in earnest to halt SB 277—because they wish to save children’s lives and spare
13 families from immeasurable grief, hardship, and suffering.

14 (94) Preserving the Status Quo: If the Court compares the harm to the Defendant
15 in *issuing* the requested injunction—versus the harm to Plaintiffs in *withholding*
16 the injunction, it becomes obvious that issuing the injunction merely preserves
17 the status quo, and no harm comes to the state. Plaintiffs urge the Court to err
18 on the side of the schoolchildren—to save their lives—and to defend their
19 fundamental right to go to school.

20 (95) Likelihood of Success on the Merits: Plaintiffs believe the instant, verified
21 complaint demonstrates a likelihood of success on the merits because SB 277
22 substantially interferes with fundamental, constitutional rights enumerated at both
23 the federal and state constitutions.

24 (96) Attorney’s Fees: Plaintiffs seek an attorney’s fees award under CCP §1021.5
25 because this lawsuit enforces important rights affecting the public interest and
26 brings substantial benefit to all Californians.

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☞ CAUSE of ACTION No. 5 ☞

1
2 (97) Cause-of-Action No. 5: Violation of California Constitution, Article 1,
3 Section 7, Due Process, “Void for Vagueness.”

4 (98) Plaintiffs herein incorporate, by this reference, all other paragraphs.
5 Plaintiffs bring *Cause of Action No. 5*, on behalf of themselves and their children,
6 against Defendant, KAREN SMITH, *in her capacity as* the Director of the
7 California Department of Public Health, alleging that SB 277 is impermissibly
8 vague and thus unconstitutional under Calif. Const., Art. 1, Sec. 7, Due Process.

9 (99) SB 277 violates California Constitution, Art. 1, Sec. 7, which provides that
10 all persons are entitled to due process of law. The Due Process Clause provides
11 that “vague” statutory enactments are “void.”

12 (100) The Due Process Clause, Calif. Const., Art. 1, Sec. 7, provides that everyone
13 is entitled to know exactly what a law commands or forbids. Where reasonable
14 persons of ordinary prudence cannot determine exactly what a law mandates or
15 prohibits, such laws are deemed “unconstitutionally vague.”

16 (101) SB 277 is void for vagueness because its dictates are difficult to understand.
17 Too many parents are hopelessly confused about exactly how many, of which
18 shots, are required (and when). Sadly, too many doctors take advantage of this
19 confusion because doctors are paid to administer vaccines and further, they receive
20 compensation from insurance companies for patient compliance.

21 (102) Plaintiffs further note that SB 277’s medical exemption provision provides
22 little detail. Plaintiffs argue that its specific requirements are not well-defined.
23 SB 277’s medical exemption provision is unconstitutionally vague, and this
24 violates fundamental notions of due process under Calif. Const., Art. 1, Sec. 7.

25 (103) Many parents will pursue medical exemptions, however, the medical
26 profession is reluctant to grant medical exemptions because of the quasi-religious
27 orthodoxy that bears on doctors. This issue will become hotly contested because
28 medical exemptions are the last best hope to escape vaccination under SB 277.

1 (104) SB 277's vaccine mandate fails for want of manageable standards describing
2 which circumstances give rise to medical exemptions. SB 277 has no standards
3 nor other criteria for doctors to know *who* qualifies for medical exemptions, or
4 under *which* circumstances.

5 (105) Medical Exemption; Minimal Requirements: H & S Code §120370(a):
6 Section 120370(a) - *“If the parent or guardian files with the governing*
7 *authority a written statement by a licensed physician to the effect that*
8 *the physical condition of the child is such, or medical circumstances*
9 *relating to the child are such, that immunization is not considered safe,*
10 *indicating the specific nature and probable duration of the medical*
11 *condition or circumstances, including, but not limited to, family*
12 *medical history, for which the physician does not recommend*
13 *immunization, that child shall be exempt from the requirements of*
14 *Chapter 1 (commencing with Section 120325, but excluding Section*
15 *120380) and Sections 120400, 120405, 120410, and 120415 to the*
16 *extent indicated by the physician's statement.”*

17 [See Health & Safety Code §120370(a); emphasis added.]

18 (106) The Code's only requirement for medical exemptions is a simple doctor's
19 note indicating that vaccines are unsafe for a given child. But remember, the
20 Supreme Court has already ruled vaccines are unsafe, and therefore, it makes no
21 sense to have medical exemptions based on whether doctors believe a given
22 vaccine is “unsafe” (because all vaccines are “unsafe” as a matter of law).

23 (107) On June 6, 2016, Charity Dean, Health Officer, Santa Barbara County Public
24 Health Dept., launched a County program to review student medical exemptions.
25 However, Charity Dean offers no explanation as to what standards she employs in
26 reviewing student exemptions. Plaintiffs are alarmed that Santa Barbara County
27 wishes to review medical exemptions because nothing in SB 277 allows counties
28 to reevaluate the legitimacy of medical exemptions.

1 (108) Presumably, Charity Dean wishes to learn which doctors coddle the anti-
2 vaccinationists—and then bully those doctors into a moratorium on medical
3 exemptions. However, Charity Dean’s program is unlawful because children have
4 a right to medical exemptions and the state has no business trying to second-guess
5 exemptions issued by physicians. The actions of Santa Barbara County are
6 overreaching and further demonstrate that SB 277’s medical exemption provision
7 is inarticulately drawn.

8 (109) As a matter of law, all vaccines are “unsafe.” Indeed, “unavoidably” so.
9 [See *Bruesewitz v. Wyeth LLC*, (2011) 562 U.S. 223, 131 S. Ct. 1068, 1089, 179
10 L. Ed. 2d 1] Based on the fact that all vaccines, by law, are “unsafe”—and based
11 on the fact that medical exemptions apply where vaccines are deemed “unsafe”—
12 physicians may freely write medical exemptions for any reason under the sun.
13 A doctor’s note that says “vaccination is unsafe” does nothing more than restate
14 the obvious—that vaccines are unsafe—which is the holding in *Bruesewitz*.

15 (110) SB 277’s medical exemption provision fails to pass muster under the Due
16 Process Clause of the California Constitution because it contains no manageable
17 standards or other criteria for doctors to issue such exemptions.

18 (111) Here, because fundamental rights are at stake, “strict scrutiny” is the
19 appropriate standard of judicial review; and thus, the burden of proof “shifts”
20 to the state, which must plead and prove, as an affirmative defense, the existence
21 of a “narrowly tailored, compelling governmental interest.”

22 (112) In order to survive strict scrutiny, the state must prove three things:

- 23 (i) the existence of a “compelling governmental goal or interest” in SB 277;
24 (ii) that SB 277 was “narrowly tailored” to achieve only that goal or interest, and,
25 (iii) that SB 277 was the “least restrictive means” of achieving it.

26 (113) Legislative Intent: Pursuant to Health & Safety Code Sec. 120325(a), it is
27 the express intent of Sacramento lawmakers to provide: “[a] means for the eventual
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1 achievement of *total immunization* of appropriate age groups against [enumerated]
2 childhood diseases.” [See H & S Code §120325 *et.seq.*; emphasis added.]

3 (114) The articulated three-pronged legal analysis becomes: (i) whether there
4 exists a “compelling governmental interest” in Sacramento's stated goal, *i.e.*,
5 “total immunization;” (ii) whether SB 277 is “narrowly tailored” to achieve
6 Sacramento’s stated goal, *i.e.*, “total immunization; and (iii) whether there are
7 “less-restrictive means” of achieving “total immunization.”

8 (115) There is no “compelling governmental interest” in “total immunization.”
9 The goal itself is vague and ambiguous under a due process analysis, (how many
10 vaccines are required to achieve total immunization?). This stated goal—total
11 immunization—fails to pass muster even under the “rational basis” test.

12 (116) Even if the Court does find a compelling governmental interest, there are
13 “less-restrictive” means of immunization available to the state, *e.g.*, all 58 counties
14 may pursue non-allopathic means of immunization and parents may also
15 immunize; and, in the event of an outbreak, counties may institute quarantine.

16 (117) Injunctive Relief: Plaintiffs seek a preliminary injunction under CCP §526,
17 which provides an injunction may be granted “when it appears by the complaint
18 that the plaintiff is entitled to the relief demanded.” [See CCP §526] Plaintiffs
19 contend they are entitled to injunctive relief based only on the allegations set forth
20 in the complaint (which is verified).

21 (118) Inadequate Remedy at Law: Plaintiffs allege an inadequate remedy at law;
22 here, monetary compensation is inadequate because Plaintiffs’ constitutional rights
23 are inalienable.

24 (119) Risk of Grave & Irreparable Harm: Unless the Court grants the requested
25 injunctive relief, children will suffer grave and irreparable harm, including injury
26 and death. Once the Court accepts the precedent that all vaccines are unavoidably
27 unsafe, as per *Bruesewitz*, the Court may then conclude that SB277 will be the
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1 direct cause of dead and maimed schoolchildren. SB 277 will also cause many
2 children to lose their educations and/or force their parents to relocate out-of-state.

3 (120) Balancing the Equities: Here, because the risks so far outweigh the benefits,
4 (if any), the Court is wise to issue Plaintiffs’ requested injunctive relief. Plaintiffs
5 are in earnest to halt SB 277—because they wish to save children’s lives and spare
6 families from immeasurable grief, hardship, and suffering.

7 (121) Preserving the Status Quo: If the Court compares the harm to the Defendant
8 in *issuing* the requested injunction—versus the harm to Plaintiffs in *withholding*
9 the injunction, it becomes obvious that issuing the injunction merely preserves
10 the status quo, and no harm comes to the state. Plaintiffs urge the Court to err
11 on the side of the schoolchildren—to save their lives—and to defend their
12 fundamental right to go to school.

13 (122) Likelihood of Success on the Merits: Plaintiffs believe the instant, verified
14 complaint demonstrates a likelihood of success on the merits because SB 277
15 substantially interferes with fundamental, constitutional rights enumerated at both
16 the federal and state constitutions.

17 (123) Attorney’s Fees: Plaintiffs seek an attorney’s fees award under CCP §1021.5
18 because this lawsuit enforces important rights affecting the public interest and
19 brings substantial benefit to all Californians.

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☞ PRAYER for RELIEF ☞

WHEREFORE, Plaintiffs prays for judgment against Defendant, and each of them, in the following manner:

- for an award of judgment on all causes of action;
- for an order striking Senate Bill No. B 277: *“An act to amend Sections 120325, 120335, 120370, and 120375 of, to add Section 120338 to, and to repeal Section 120365 of the Health and Safety Code, relating to public health.”*
- for a preliminary and permanent injunction prohibiting Defendant from implementing SB 277 or its state-mandated immunization requirements;
- for costs and expenses of this lawsuit;
- for reasonable attorney’s fees as per CCP §1021.5;
- for such other and further relief as the Court deems just and proper.

Dated: **July 19, 2016**

LAW OFFICES OF T. MATTHEW PHILLIPS

T. Matthew Phillips

T. Matthew Phillips, Esq.
Plaintiffs’ Counsel.

